

State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

580J0409

HOUSE TRANSPORTATION COMMITTEE ENGROSSED NO. **HB 1166** - 01/28/2004

Introduced by: Representatives Glenski, Cradduck, Gassman, McCoy, McLaughlin,
Murschel, Rounds, Smidt, and Van Gerpen and Senators Earley and Abdallah

1 FOR AN ACT ENTITLED, An Act to require damage disclosure statements for certain large
2 boats.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That chapter 32-3A be amended by adding thereto a NEW SECTION to read as
5 follows:

6 Upon the sale, assignment, or transfer of a large boat, or if registering a large boat in South
7 Dakota which is titled in another state or jurisdiction, the seller, assignor, or transferor, or
8 person wishing to register in South Dakota a large boat which is titled in another state or
9 jurisdiction shall submit an accurately completed damage disclosure statement when applying
10 for a certificate of title pursuant to § 32-3A-20. The completed damage disclosure statement
11 may be on the back of the certificate of title or on a separate document that has been approved
12 for use by the department. No certificate of title may be issued by the department unless the
13 damage disclosure statement accompanies the application. It is a Class 1 misdemeanor to
14 intentionally falsify any information on the damage disclosure statement. No person is liable to
15 a subsequent owner of a large boat because a prior owner of the large boat failed to disclose that



1 the large boat had previously been damaged and repaired. This section applies to any large boat
2 with damage in excess of five thousand dollars and is six years old or less. If the large boat has
3 incurred damages more than once, only those damages which occurred at one time would be
4 considered in determining whether the damages exceeded five thousand dollars.

5 Section 2. That chapter 32-3A be amended by adding thereto a NEW SECTION to read as
6 follows:

7 For the purposes of the damage disclosure statement provided by section 1 of this Act, the
8 term, damage, means damage to the large boat caused by fire, vandalism, collision, weather,
9 submersion in water, or flood, and does not include normal wear and tear, glass damage,
10 mechanical repairs, or electrical repairs that have not been caused by fire, vandalism, collision,
11 weather, submersion in water, or flood.

12 Section 3. That chapter 32-3A be amended by adding thereto a NEW SECTION to read as
13 follows:

14 The department shall retain each damage disclosure statement received. The statement shall
15 become part of the title history available to the public pursuant to § 32-3A-38.

16 Section 4. That chapter 32-3A be amended by adding thereto a NEW SECTION to read as
17 follows:

18 The department shall promulgate rules, pursuant to chapter 1-26, to prescribe the format for
19 the damage disclosure statement provided by section 1 of this Act. An area for a damage
20 disclosure statement shall appear on the back of each certificate of title issued by the
21 department. The department may also approve separate documents on which a damage
22 disclosure statement may be submitted. The damage disclosure statement form shall indicate
23 whether the large boat has been damaged such that it cost more than five thousand dollars to
24 repair to its predamaged condition and any other damage information the department deems

1 appropriate. If a separate document from the certificate of title contains the damage disclosure
2 statement, the document shall also require the following information: year, make, model, and
3 hull identification number of the large boat.

4 Section 5. That chapter 32-3A be amended by adding thereto a NEW SECTION to read as
5 follows:

6 The dollar amount of damage to a large boat required to be disclosed pursuant to section 1
7 of this Act shall include the costs necessary to return the damaged large boat to its predamaged
8 condition. Such costs include parts, labor, paint, and hull work done on the damaged large boat.

9 Section 6. That chapter 32-3A be amended by adding thereto a NEW SECTION to read as
10 follows:

11 Any large boat that is required to be titled pursuant to this chapter and is sold or offered for
12 sale by a boat dealer as defined in § 32-3A-2 shall display a sticker, decal, or notice that
13 discloses damage to the large boat in accordance with the provisions of this Act, as determined
14 by the department in rules promulgated pursuant to chapter 1-26. The rules shall also prescribe
15 the format and construction of the sticker, decal, or notice.

16 Section 7. That chapter 32-3A be amended by adding thereto a NEW SECTION to read as
17 follows:

18 Each certificate of title issued by the department shall contain the following phrase: South
19 Dakota state law requires the disclosure of damage on large boats. This information is available
20 upon written request from the Department of Revenue and Regulation. Each certificate of title
21 shall also contain on its front a statement as to whether previous damage disclosure statements
22 indicate the large boat had been damaged at one time in excess of five thousand dollars.

23 Section 8. That § 32-3A-38 be amended to read as follows:

24 32-3A-38. The department may upon written request and receipt of a five dollar fee furnish

1 a person a certified abstract of the title history which shall include any damage disclosure
2 statement of any boat registered under the provisions of this chapter. The abstract may include
3 all documents filed with the department to establish the title history of the boat. The fee shall
4 be deposited in the state motor vehicle fund. Governmental entities and their subdivisions are
5 exempt from this fee requirement.